

State of Alaska FY2005 Governor's Operating Budget

Department of Law Opinions, Appeals and Ethics Component Budget Summary

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Component: Opinions, Appeals and Ethics

Contribution to Department's Mission

The Opinions, Appeals and Ethics section provides specialized legal services and representation to state government on all legal opinions, civil appeals in state and federal court, all executive branch ethics, public finance matters, and Indian law.

Core Services

The Opinions, Appeals and Ethics section provides legal services and expertise to departments and agencies in a variety of areas requiring special expertise. Those areas include attorney general opinions on all subjects and appeals of civil cases in both state and federal court. The section serves all state departments, boards, and commissions on all Executive Branch Ethics Act matters. The section also provides advice and representation on specialized areas of the law including public finance and budget and Indian law.

The section was established in June 2003. Its primary functions are to improve the state's civil appellate work, the quality of attorney general opinions, provide more timely and comprehensive services on executive branch ethics for all of state government, and to provide specialized legal expertise in certain areas including public finance and Indian law. The attorneys in the section evaluate and make recommendations to the attorney general on all civil appeals, provide assistance with appellate briefing and case preparation, and handle appeals where the case presents significant constitutional issues or where matters of statewide implication are involved. The section also handles about half of the state's appellate cases concerning child abuse and neglect and juvenile delinquency.

The section is responsible for attorney general opinions, and in carrying out that function it both prepares opinions on significant legal issues, and reviews and approves opinions generated by others in the department. As with the appellate function, the opinion function is improving the substance, quality, and consistency of the written legal advice issued by the department.

The section is assigned the Executive Branch Ethics function for state government. This focus has improved the timeliness and quality of ethics advice being rendered to all state agencies. The section also provides legal advice and assistance on the state's public funds and public finance and legal advice to the Governor's Office. It also is responsible for coordinating and assisting on work on Alaska Native and federal Indian law issues, both civil and criminal.

FY2005 Resources Allocated to Achieve Results

FY2005 Component Budget: \$1,132,200	Personnel:	
	Full time	8
	Part time	0
	Total	8

Key Component Challenges

The Opinions, Appeals and Ethics section is currently overseeing the work of the civil division on over 80 appeals pending in state and federal court. At any given time, we have between 80 and 90 civil appeals pending in the courts, about 25 of those being in the area of child abuse and neglect (CINA). The section is currently handling 12 of the CINA appeals and is at full capacity in that area. We are handling the appeals in several other cases that concern constitutional and legal issues of particular import. A key challenge for the section is to be involved in the briefing and preparation of all civil appeals. The section has prepared significant opinions on constitutional issues concerning the initiatives and the permanent fund. A key challenge in this area is to develop protocols to ensure the section is involved early in the opinion process to ensure that timely and high quality advice is rendered to state agencies, which in turn improves agency decision making.

Ethics is another key challenge for the section. The section has handled scores of ethics issues, investigations, opinions, and advice since June 2003. These issues come up every day from all over state government. It is important that ethics advice be rendered promptly and in a consistent manner. Opinions and advice often require significant factual and legal research. The section intends to provide more ethics training for state agencies – this is a challenge for us because the daily ethics advice function takes much of our time. Better and more frequent training will improve agency action and decision making on ethics issues.

Indian law issues continue to become more complex and prevalent – these issues impact virtually every area of state government's responsibilities. The section is working to provide advice on a wide variety of issues including civil and criminal jurisdiction and authority, Indian gaming, sovereign immunity, Indian country, tribal status, Indian Child Welfare Act, and many more. We anticipate this area of law and legal services to be a continuing challenge for the section.

Significant Changes in Results to be Delivered in FY2005

In FY2005, approval for the addition of two attorneys to the section will result in significant improvements in the areas of civil appeals in CINA cases, Indian law, and ethics advice and training for state government.

The section currently has one attorney devoted to CINA appeals and we are able to handle about half of the appeals in these child abuse and neglect cases. We would like to handle all this work because this has proven better results and it will allow our over-loaded CINA trial attorneys to focus on trial work.

Currently we have one attorney assigned to both Indian law and Executive Branch Ethics. Because of this lack of adequate staff, both of these important functions are short-changed. A new attorney position for Indian law will enable us to address the many issues coming up for state agencies in this area. It will have the added benefit of allowing us to spend more time on ethics matters, including providing regular ethics training and improving all aspects of our important advisory and investigatory functions.

Major Component Accomplishments in 2003

The Opinions, Appeals and Ethics section was established effective June 2, 2003. Thus, the balance of 2003 has been a transition period for the section. Since June 2003, the section has had several major accomplishments:

- Between June and October, 2003, the section evaluated and made recommendations to the attorney general on whether to appeal in 12 cases; the evaluations include careful review of the case, consultation with the attorney and agency involved, preparation of a memorandum for the attorney general, and discussion with the attorney general and the deputy attorney general.
- The section worked on appellate briefs in many cases, set up and participated in oral argument preparation, and provided consultation on appellate issues for the civil division.
- The section prepared and issued several attorney general opinions and assisted with the preparation of many other opinions.
- The section handled approximately half of the court appeals in CINA cases.
- The section provided legal advice on over 60 ethics issues, rendered several ethics opinions and memoranda of advise on topics such as outside employment, post-state employment, gifts, contracts, etc., investigated and resolved several ethics complaints, and provided ethics act training for the Governor's Office.
- The section advised the Office of Management and Budget on issues concerning public finance and budget.
- The section worked on a wide variety of Indian law issues concerning such subjects as tribal employment rights, Indian Child Welfare Act, Indian gaming, sovereign immunity, and tribal jurisdiction in civil and criminal arenas.

Statutory and Regulatory Authority

No statutes and regulations.

Contact Information
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Opinions, Appeals and Ethics Component Financial Summary

All dollars shown in thousands

	FY2003 Actuals	FY2004 Authorized	FY2005 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	0.0	0.0	904.4
72000 Travel	0.0	0.0	35.0
73000 Contractual	0.0	0.0	159.5
74000 Supplies	0.0	0.0	20.3
75000 Equipment	0.0	0.0	13.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	0.0	0.0	1,132.2
Funding Sources:			
1004 General Fund Receipts	0.0	0.0	762.1
1007 Inter-Agency Receipts	0.0	0.0	370.1
Funding Totals	0.0	0.0	1,132.2

Estimated Revenue Collections

Description	Master Revenue Account	FY2003 Actuals	FY2004 Authorized	FY2005 Governor
<u>Unrestricted Revenues</u>				
None.		0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0
<u>Restricted Revenues</u>				
Interagency Receipts	51015	0.0	0.0	370.1
Restricted Total		0.0	0.0	370.1
Total Estimated Revenues		0.0	0.0	370.1

**Summary of Component Budget Changes
From FY2004 Authorized to FY2005 Governor**

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2004 Authorized	0.0	0.0	0.0	0.0
Adjustments which will continue current level of service:				
-PCN 03-0295 from Statehood Defense	147.4	0.0	0.0	147.4
-PCN 03-0308 from Transportation Section	0.0	0.0	149.0	149.0
-PCN 03-0048 from Natural Resources	73.7	0.0	73.7	147.4
-PCN 03-0029 from Labor and State Affairs	0.0	0.0	147.4	147.4
-PCN 03-0338 from Office of the Attorney General	145.8	0.0	0.0	145.8
-PCN 03-0367 from Human Services	147.4	0.0	0.0	147.4
Proposed budget increases:				
-1 New Attorney- Indian Law	112.2	0.0	0.0	112.2
-1 New Attorney- Human Services Appeals	135.6	0.0	0.0	135.6
FY2005 Governor	762.1	0.0	370.1	1,132.2

**Opinions, Appeals and Ethics
Personal Services Information**

Authorized Positions			Personal Services Costs	
	FY2004 Authorized	FY2005 Governor		
Full-time	0	8	Annual Salaries	671,462
Part-time	0	0	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	233,071
			<i>Less 0.01% Vacancy Factor</i>	(133)
			Lump Sum Premium Pay	0
Totals	0	8	Total Personal Services	904,400

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney IV	2	0	1	0	3
Attorney V	1	2	1	0	4
Attorney VI	0	0	1	0	1
Totals	3	2	3	0	8